

AMENDMENT UNDER 37 C.F.R. § 1.116  
 U.S. Application No. 09/810 339  
 Attorney Docket No. Q6209

# **REMARKS**

Reconsideration and allowance of this application are respectfully requested. Claim 1 has been amended to substantially include the features of claims 2 and 3. Claim 7 has been amended to include the features of original claim 1, the combination of which Examiner has previously indicated to be allowable. Claims 2 and 3 have also been amended to change their dependencies to be dependent upon claim 7. Claims 1-3 and 5-19 are pending in the application. The rejections are respectfully submitted to be obviated in view of the amendments and remarks presented herein.

## **Rejection Under 35 U.S.C. § 102(b) – Ernest**

Claims 1-3, 5, 6, 8 and 19 have been rejected under 35 U.S.C. § 102 (b) as allegedly being anticipated by Ernest (U.S. Patent Number 4,879,592). The rejection is respectfully traversed.

Regarding claim 1, as amended, Applicant's claimed invention relates to a photographing device adjusting light quantity while imaging. A light quantity adjustment unit is provided in an optical path of light carrying an image of a subject and between an optical lens and a photographing unit. "[The] light quantity adjustment unit is a unit for adjusting the light quantity of the image of said subject for each color channel of said photographing unit, said light quantity adjustment unit is a unit for relatively reducing a light quantity of an area corresponding to a bright portion of the image of said subject or said light quantity adjustment unit is a unit for relatively increasing a light quantity of an area corresponding to a dark portion of the image of said subject when the image is taken by said photographing unit" as claimed.

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Turning to the cited art, Ernest discloses a camera with a two-bladed shutter mechanism with multiple filter apertures as shown in FIGS. 1 and 2. A variable aperture iris diaphragm (14) may be controlled in a conventional manner by an iris control (16) in response to the intensity of incident scene light detected by a photoresponsive element or diode (17) (column 3, lines 14-17). Exposure intervals of each color component may be individually controlled to achieve the direct exposure of each color separation component (column 5, lines 46-65). However, although Ernest discusses a variable aperture iris diaphragm and the control of an exposure interval, none of the light exposure control in Ernest specifically relatively reduces a light quantity of an area corresponding to a bright portion or relatively increases a light quantity of an area corresponding to a dark portion of the image of the subject, as Applicant claims. Ernest's diaphragm (14) and color component separation shutter (24) enable changes to exposure interval for each color component separation exposure while filtering specific color bands of light by using shutter blade elements (34 and 36). There is no mention in Ernest of a relative reduction or relative increase of light quantity of areas of the image, because the whole area of the image undergoes color separation and filtering, and thus the whole image increases or reduces in light quantity. There is no reduction or increase of light quantities in a relative manner of areas of the image corresponding to a bright portion of the image and a dark portion of the image respectively, as claimed. Furthermore, the Examiner has admitted on pages 3 and 4 of the Office Action that the light quantity in Ernest is increased and decreased overall, and not in a relative manner based on respective areas of the image. Therefore, at least by virtue of the aforementioned reasons and the deficiency of Ernest admitted by Examiner, the invention defined by Applicant's claim 1 is

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patentable over Ernest. Applicant's claims 5, 6 and 8 are dependent claims including all of the elements of independent claim 1, which, as established above, patentably distinguishes over Ernest. Therefore, claims 5, 6 and 8 are patentable for at least the aforementioned reasons as well as for their additionally recited features. Reconsideration and withdrawal of the rejection are respectfully requested.

Regarding claims 2 and 3, claims 2 and 3 have been amended to depend upon claim 7, which was previously indicated to be allowable if rewritten in independent form. Claim 7 has now been rewritten to include the elements of original claim 1. Therefore, Applicant respectfully requests the Examiner to withdraw the rejections of claims 2 and 3.

Regarding claim 19, information on an adjustment of the light quantity in the light quantity adjustment unit is recorded and held together with image data read after the adjustment has been made by the light quantity adjustment unit.

Ernest discloses a camera with a two-bladed shutter mechanism as described above. Examiner maintains on page 5 of the Office Action that a recording circuit and a recording memory are inherently included in the camera of Ernest so as to store images after shooting, and that the video image data inherently includes adjustment information recorded into the memory. However, this feature is not taught or suggested by Ernest. Applicant's photographing device records information on an adjustment of the light quantity in the light quantity adjustment unit and holds it together with image data read after the adjustment has been made. However, Ernest discloses only an image sensing array for still images which includes a video processing circuit (18) as shown in FIG. 1, which transfers out each color component signal information by a

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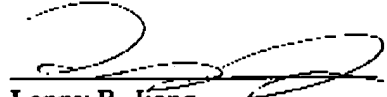
conventional manner (column 5, lines 4-7). There is no mention in Ernest that any other information is recorded other than the image data. Ernest does not teach or suggest the recording of information on an adjustment of the light quantity in the light quantity adjustment unit, held together with image data read after the adjustment has been made, and it is not suggested by Ernest to record such adjustment information of the light quantity adjustment unit. This feature of Applicant's claimed invention is not believed to be inherent, and Applicant is not aware of any photographing devices in the prior art which records such information in a photographing device as claimed. Inherency requires the necessity that a certain element is present or that a particular function must occur. However, even if Ernest's video image data does include adjustment information as Examiner contends, claim 19 specifically recites that information on an adjustment of the light quantity is recorded and held together with the read image data. It would not be inherent to record and hold this information together with image data, as opposed to another alternative of having video image data which already includes adjustment information, as Examiner has contended. Because Applicant has claimed a specific embodiment wherein "information on an adjustment of the light quantity in said light quantity adjustment unit is recorded and held together with image data read after the adjustment has been made by said light quantity adjustment unit," and, as an alternative, it is readily possible that adjustment information may be included in the video image data as Examiner has stated, Applicant's claimed invention thus can not be an inherent feature. At least by virtue of the aforementioned differences, the invention defined by Applicant's claim 19 is patentable over Ernest. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(b) are respectfully requested.

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In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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